



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,009	11/28/2000	Shu-Chun Jeane Chen	SOM9-2000-0008/1963-7390	8548
7590	12/14/2004		EXAMINER	
WILLIAM E LEWIS RYAN MASON & LEWIS LLP 90 FOREST AVENUE LOCUST VALLEY, NY 11560			BELIVEAU, SCOTT E	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/725,009	CHEN ET AL.
Examiner	Art Unit	
	Scott Beliveau	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 July 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5,7,9-19,22 and 26-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5,7,9-19,22 and 26-31 is/are rejected.

7) Claim(s) 8 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 July 2004 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other:

DETAILED ACTION

Miscellaneous

1. Please note that the examiner of record for the prosecution of this application has changed.

Drawings

2. The drawings were received on 28 July 2004. These drawings are approved.

Response to Arguments

3. Applicant's arguments with respect to claims 1, 10, 13, 19, 22, and 26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the

time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds et al. (US Pub No. 2001/0037500 A1).

In consideration of claim 1, Figures 1 and 2 of Reynolds et al. illustrate a “system for incorporating local content into a communication stream”. The method comprises the “means for transmitting a communication stream including a program content” [110] to a “receiver” [130], a “means for inserting in the program content one or more first tags and one or more second tags” [136], a “means for capturing the program content at the receiver” [132] and “storing the one or more second tags” [140], a “means for processing the one or more second tags in the tables to modify at least a portion of the at least one of the one or more first tags” [134], and a “means for processing the one or more first tags . . . to insert local content in place of the program content for re-transmission to the local area served by the receiver” [136]. More specifically, the reference discloses that a system is operable to receive “one or more first tags” associated with generic meta data components derived from a national affiliate whereupon a “one or more second tags” associated with local meta data is operable to “modify” the “one or more first tags” by replacing either in whole or in part the associated content (Para. [0027]) or may simply reinsert the original “one or more first tags” back into the “communication stream” (Para. [0028]).

As to the particular requirement that the tags are stored in “tables”, the reference suggests the particular usage of any number of other known types of data storage facilities or devices (Para. [0026] and [0029]) including a database (ex. Claim 31) for the processing and storage

of the enhanced content. The reference, however, is silent as to the particular usage of "tables". The examiner takes OFFICIAL NOTICE that the particular usage of "tables" as a means or structure for the storage and manipulation of data records is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art to utilize "tables" as a storage means for the inherent advantages associated with storing and processing data in table format including the ability to facilitate easy access and retrieval and modification of records associated with the "one or more first" and "second tags".

Claims 2 and 9 are rejected wherein the system implicitly comprises an "authoring tool" or "means for authoring the one or more first tags and the one or more second tags and inserting them in the program content" given the disclosure of both the "one or more first tags and the one or more second tags" which are "inserted . . . in the program content". In particular, it is unclear as to how they would have inserted if they were not created or "authored" at some point in time.

Claim 3 is rejected wherein the system comprises the "means for scheduling the one or more first tags in the program content for local action" such that it is "scheduled" or repackaged to appear in connection with a particular broadcast program/segment.

In consideration of claim 4, as aforementioned, the particular usage of "tables" as a "storage means" is well-known in the art. Accordingly, the particular usage of a "first table means" and a "second table means" would be met in view of the usage of the aforementioned tables such that the means may or may not be associated with the same or different logically and/or physical entities.

Claim 5 is rejected wherein the “one or more first tags” comprise “means for identifying local content for splicing or replacing program content” such as that associated with a particular advertisement or web-page. For example, a generic national automobile ad or web page might be modified to reference local resources subsequent to modification (Para. [0027]).

Claim 7 is rejected wherein the distribution of “the one or more first tags and the one or more second tags” through the ATVEF standard comprises “a header, tag type, and local action”.

7. Claims 10-19, 22, and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lash et al. (US Pub No. 2002/0108128 A1), in view of Lumley et al. (US Pat No. 6,588,013).

In consideration of claim 10, Figure 1 of the Lash et al. reference illustrates the general architecture of an “enhanced TV system”. In particular, the system comprises “at least one source for transmitting compressed, packetized audio/video program content with one or more first tags . . . in a communication stream” [1200] (Para. [0011] and [0029]), “at least one enhanced TV station for receiving the communication stream” [1400], “means for expanding the received communication stream” [2020], “means for capturing the program content at the enhanced TV station and storing the one or more first tags and the one or more second tags” [2070/3035], “means for processing the one or more second tags . . . to modify at least a portion of at least one of the one or more first tags” [2050], “means for processing the one or more first tags . . . to insert local content into the program content” [2090], and

“local receivers for receiving, viewing and interacting with the program content” [2130] (Para. [033], [0040], and [0084] – [0087]).

The reference, however, is silent as to how in particular the “one or more second tags” [2070] corresponding to promotional selection rules (Para. 0033] are obtained. The Lumley et al. reference discloses that it is known in the art for “at least one source [to] transmit compressed, packetized audio/video program content with one or more second tags” (Col 10, Lines 34-46) associated with promotional selection rules. Accordingly, it would have been obvious to one having ordinary skill in the art so as to particularly distribute “one or more second tags” associated with promotional selection algorithms in connection with the video content for the purpose of advantageously providing a means by which promotional material selection algorithms may be updated so as to provide optimal promotion selection based upon promotional event logs without involving extensive manual analysis by local operators (Lumley et al.: Col 3, Line 21 – Col 4, Line 32).

As aforementioned, with respect to the particular requirement that the “one or more first tags” and “one or more second tags” be stored in “tables”, the examiner takes OFFICIAL NOTICE that the particular usage of “tables” as a means or structure for the storage and manipulation of data records is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art to utilize “tables” as a storage means for the inherent advantages associated with storing and processing data in table format including the ability to facilitate easy access and retrieval and modification of records associated with the “one or more first” and “second tags”.

Claim 11 is rejected wherein the system comprises “computer means including a computer memory” including “program instructions stored in the computer memory for authoring tags” and subsequently “scheduling insertion of the one or more first tags into the program content” (Para. [0029] and [0038]). The particular “scheduled insertion of the one or more second tags in the program content” is implicitly performed by Lumley et al. given that the promotional rules must be scheduled for delivery simultaneously or prior to the receipt of the “one or more first tags” in order for the algorithm to be of any use in processing the “one or more first tags” for which it was developed. As is further illustrated in Figure 2, the system further comprises “means coupling the computer to web servers for e-commerce, database information, and tracking interaction with the local receivers” [2150/2100/2030/2120].

Claim 12 is rejected wherein the “local receiver means” [2130] further “generates and transmits messages to the enhanced TV station” so as to report which tags were received (particularly in view of the combined references), and further comprises “means for transmitting the messages and/or the one or more first tags to the web servers which provide content for the one or more first tags and/or respond to the messages” [2160] (Para. [0090] – [0091]).

In consideration of claims 13 and 26, as aforementioned, Figure 2 of the Lash et al. reference illustrates the general architecture of an “enhanced TV system” with which to implement a method through a “program medium executable in a computer system”. In particular, the method comprises “capturing the program content including one or more first flags” [2020], “storing the one or more first tags and the one or more second tags . . . at the

receiver" [2070/3035], "processing the one or more second tags . . . to modify at least a portion of at least one of the one or more first tags" [2050], and "processing the one or more first tags . . . to insert local content in place of the program content at a scheduled time in the program content into the program content for re-transmission to an area served by the receiver" [2090] (Para. [0033], [0040], and [0084] – [0087]).

The reference, however, is silent as to how in particular the "one or more second tags" [2070] corresponding to promotional selection rules (Para. [0033]) are obtained. The Lumley et al. reference discloses that it is known in the art to for "at least one source [to] transmit compressed, packetized audio/video program content with one or more second tags" (Col 10, Lines 34-46). Accordingly, it would have been obvious to one having ordinary skill in the art so as to particularly distribute "one or more second tags" associated with promotional selection algorithms in connection with the video content for the purpose of advantageously providing a means by which promotional material selection algorithms may be updated so as to provide optimal promotion selection based upon promotional event logs without involving extensive manual analysis by local operators (Lumley et al.: Col 3, Line 21 – Col 4, Line 32).

As aforementioned, with respect to the particular requirement that the "one or more first tags" and "one or more second tags" be stored in "tables", the examiner takes OFFICIAL NOTICE that the particular usage of "tables" as a means or structure for the storage and manipulation of data records is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art to utilize "tables" as a storage means for the inherent advantages associated with storing and processing data in table format

including the ability to facilitate easy access and retrieval and modification of records associated with the “one or more first” and “second tags”.

Claims 14 and 27 are rejected wherein the “the one or more first tags and the one or more second tags” are implicitly “scheduled . . . for incorporation in to the communication stream at scheduled insertion points” corresponding to the particular local avails with which they were initially associated.

In consideration of claims 15 and 28, the Lash et al. reference discloses the particular usage of “coupling a set-top box to the receiver” [2140] (Para. [0022]) which facilitates “interaction in accordance with an action defined in the one or more first tags” such as the retrieval of a particular web-page.

Claims 16-18 and 29-31 are rejected wherein the system further “tracks set-top interaction with the receiver or local modifications made by the one or more first tags in the program content” and “sends messages to a transmitter from set-top boxes” including “messages to a web server for contents identified by the one or more first tags or requests from set-top boxes (Para. [0090] – [0091]).

Claim 19 is rejected wherein Figure 2 of Lash et al. illustrates a “supervisor module in an enhanced TV station”. The system subsequently comprises “means for reading program content in a communication stream from a transmitter” [2020], “means for identifying one or more first tags . . . in the program content” [2050], “means for inserting the one or more first tags and the one or more second tags” [2020] in a data structure, “means for processing the one or more second tags . . . to modify at least a portion of the at least of the one or more first

tags” [2020], and “means for replacing program content with local content based on the one or more first tags” [2090] (Para. [0033], [0040], and [0084] – [0087]).

As aforementioned, the reference fails to particularly disclose that the “one or more second tags” is distributed in the “program content” and the particular usage of “tables” as a storage means. The Lumely et al. reference discloses the usage of such (Col 10, Lines 34-46). Accordingly, it would have been obvious to one having ordinary skill in the art so as to particularly distribute “one or more second tags” associated with promotional selection algorithms in connection with the video content for the purpose of advantageously providing a means by which promotional material selection algorithms may be updated so as to provide optimal promotion selection based upon promotional event logs without involving extensive manual analysis by local operators (Lumley et al.: Col 3, Line 21 – Col 4, Line 32). Furthermore, the examiner takes OFFICIAL NOTICE that the particular usage of “tables” as a means or structure for the storage and manipulation of data records is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art to utilize “tables” as a storage means for the inherent advantages associated with storing and processing data in table format including the ability to facilitate easy access and retrieval and modification of records associated with the “one or more first” and “second tags”.

In consideration of claim 22, Figure 2 of Lash et al. illustrates the structure for implementing a “method for processing tags to replace program content in a communication stream with local content”. The method subsequently comprises “reading program content in a communication stream” [2020], “identifying one or more first tags . . . in the program

content” [2050], “inserting the one or more first tags and the one or more second tags” [2020] into a data structure, “processing the one or more second tags . . . to modify at least a portion of the at least of the one or more first tags” [2020], and “replacing program content with local content based on the one or more first tags” [2090] (Para. [0033], [0040], and [0084] – [0087]).

As aforementioned, the reference fails to particularly disclose that the “one or more second tags” is distributed in the “program content” and the particular usage of “tables” as a storage means. The Lumely et al. reference discloses the usage of such (Col 10, Lines 34-46). Accordingly, it would have been obvious to one having ordinary skill in the art so as to particularly distribute “one or more second tags” associated with promotional selection algorithms in connection with the video content for the purpose of advantageously providing a means by which promotional material selection algorithms may be updated so as to provide optimal promotion selection based upon promotional event logs without involving extensive manual analysis by local operators (Lumley et al.: Col 3, Line 21 – Col 4, Line 32). Furthermore, the examiner takes OFFICIAL NOTICE that the particular usage of “tables” as a means or structure for the storage and manipulation of data records is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art to utilize “tables” as a storage means for the inherent advantages associated with storing and processing data in table format including the ability to facilitate easy access and retrieval and modification of records associated with the “one or more first” and “second tags”.

Allowable Subject Matter

8. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In particular, the art of record taken in combination fails to disclose or suggest the step of “initiating and transmitting local action described in the one or more first tags” at the scheduled time. While the Reynolds reference is operable to replace one form of enhanced content for another, the “one or more first tags” are not executed at the content provider. Rather, the local action is performed at the “viewer” [70].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Andrade et al. (US Pub No. 2002/0059644 A1) reference discloses a system and method for automatic insertion of interactive content television triggers.
- The Carney et al. (US Pub No. 2002/0059586 A1) reference discloses a system and method for personalization and authorization of interactive television content.
- The Zigmund et al. (US Pat No. 6,698,020) reference discloses a system and method for selecting and inserting advertisements into a video program feed.

- The Blackketter et al. (US Pub No. 2003/0204854 A1) reference discloses a system and method for the distribution of generic interactive scripts that may subsequently be modified through local interaction.
- The Sahota (US Pub No. 2002/0010928 A1) reference discloses a system and method for integrating personalized Internet advertising with television commercials.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB
December 3, 2004



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600